



U.S. Department of Justice

Antitrust Division

*Liberty Place Building
325 Seventh Street NW
Washington, DC 20530*

June 6, 2003

VIA FACSIMILE

Thomas G. Slater, Jr., Esq.
Hunton & Williams, LLP
Riverfront Plaza, East Tower
951 East Byrd Street
Richmond, VA 23219-4074

Re: United States v. Smithfield Foods, Inc.

Dear Mr. Slater:

This letter is in follow up to the matters we discussed in our telephone conversation yesterday. Attached is a Notice of Deposition for Daniel G. Stevens, C. Larry Pope, and Lewis R. Little, which is consistent with our understanding as to dates and place. You have agreed to accept the attached Notice in lieu of our issuing subpoenas pursuant to Fed. R. Civ. P. 45 to the appropriate people, and that the Notice will be sufficient for all purposes applicable to Rule 45 as though each such person had received a subpoena. You agreed that any client appearing by way of this notice will waive the receipt of an appearance fee and mileage as required by the rules.

Yesterday, we proposed to limit the total amount of deposition to 28 hours for all eight of the individuals we would like to depose. Since our conversation, we have come up with an alternative that might be more attractive to your client: DOJ is willing to reduce the number of depositions to six (6). They would include the three noticed by agreement, plus Timothy Seely, Aaron Trub, and one deposition pursuant to Fed. R. Civ. P. 30(b)(6), which would cover the matters anticipated by the depositions of Joseph Luter, IV, Lawrence Shipp, and Robert Slavik. As a further concession to ease any burden of production, we are willing to agree that you will produce documents and respond to interrogatories for the time period starting January 1, 1998, instead of January 1, 1997.

In exchange, we propose that you produce the relevant documents through the date of the filing of the Complaint in this case.

As we discussed, it is our position that the appropriate date for establishing that

Smithfield “transacts business” in the District of Columbia is February 28, 2003, the date the complaint was filed. The documents for the dates requested are highly relevant to a determination of the nature and continuity of Smithfield’s control over its subsidiaries.

We hope to reach a compromise on this issue so that the scheduled depositions can go forward without further delay. Because of the times allotted for briefing under the rules, any discovery disputes that require resolution by the court may result in an extension of the 60-day discovery period or worse, a situation where depositions have been started but cannot be completed until after the court has ruled and any additional discovery responses and documents have been received.

On a related matter, you advised in our conversation that, notwithstanding your view of the relevant time period in connection with written discovery, you will not object or instruct your clients not to answer questions at their respective depositions on the basis that any question might seek information outside the scope of the time periods you consider relevant.

You have agreed to get back to us on the question of whether Smithfield will produce documents and respond to interrogatories regarding subsidiaries other than Smithfield Packing and Gwaltney that may be transacting business in the District of Columbia.

If we are unable to reach an agreement as to any of these outstanding matters, we agreed to have further discussions on proceeding in the most expeditious way to bring them before the court for resolution.

If you disagree with any of the above, please let me know immediately.

We await your further response.

Sincerely,

“/s/”

Nina B. Hale
Attorney

Encl.

)	
UNITED STATES OF AMERICA,)	
)	
<i>Plaintiff.</i>)	
)	Civil Action No.:03-CV-00434(HHK)
v.)	
)	
SMITHFIELD FOODS, INC.,)	
)	
<i>Defendant.</i>)	
)	

To: Smithfield Foods, Inc.

PLEASE TAKE NOTICE that, pursuant to Fed. R. Civ. P. 30 and Fed. R. Civ. P. 45, by agreement of counsel, Plaintiff will take the depositions upon oral examination of the persons listed below at 500 East Main Street, Suite 1000, Norfolk, VA 23510 (unless otherwise agreed upon by the parties), commencing at the times and on the dates indicated. All depositions will be taken before a notary public or other officer authorized to administer oaths and shall be recorded by sound or stenographic means. If necessary, the depositions shall continue from day to day until completed.

Daniel G. Stevens
Vice President and Chief Financial Officer
Smithfield Foods, Inc
200 Commerce Street
Smithfield, VA 23430

July 2, 2003

9:30 a.m.

July 3, 2003

9:30 a.m.

July 9, 2003

9:30 a.m.

By “/s/”
Nina B. Hale
Department of Justice, Antitrust Division
325 7th Street, N.W. Suite 500
Washington, D.C. 20530
Tel: (202) 307-0892
Fax: (202) 616-2441

2

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Notice of Deposition, noticing the depositions of Daniel G. Stevens, C. Larry Pope, and Lewis R. Little, was sent via first-class mail, postage prepaid, and facsimile to the individuals listed below on this 6th day of June, 2003:

Thomas G. Slater, Jr., Esq.
Hunton & Williams
951 East Byrd Street
Richmond, Virginia 23219-4074

and

Thomas M. Hughes, Esq.
Hunton & William
1900 K Street, N.W.
Washington, D.C. 20006

“/s/”

Caroline Laise
U.S. Department of Justice, Antitrust Division

Transmission Report

Fri June 6, 2003

DOJ ATR TRANS. ENERGY& AGR:

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[The DOJ Seal is to the right of the address.]

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FAX COVER SHEET

Date: June 6, 2003

To: Thomas Slater, Jr.

Of: Hunton & Williams

Fax Number: 804-788-8218

From: Nina Hale

Pages Sent (including this sheet): 6

Remarks: